

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

*In re LORAZEPAM & CLORAZEPATE  
ANTITRUST LITIGATION*

This Document Relates to:

ADVOCATE HEALTH CARE;  
ST. CHARLES HOSPITAL &  
REHABILITATION CENTER; DIK DRUG  
COMPANY and HARVARD PILGRIM  
HEALTH CARE, INC., on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

MYLAN LABORATORIES, INC., *et al.*

Defendants.

MDL No. 1290 (TFH)  
Misc. No. 99ms276  
Judge Thomas F. Hogan

Case No.: 1:99cv00790  
Consolidated with  
Case No.: 99 c 2228  
(U.S. District Court for the  
District of Illinois)

**FILED**

**AUG 16 2001**

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

**STIPULATION AND ~~PROPOSED~~ ORDER FOR  
NOTICES OF PENDENCY OF CLASS ACTION AND SST SETTLEMENT**

Pursuant to Local Rule 23(c)(1) and this Court's Memorandum and Order filed July 2, 2001, the parties jointly submit the following proposal for the Court's approval regarding class notice and the SST Corporation settlement notice<sup>1</sup>:

**How Notice Shall Be Given**

1. Notice shall be given by mailing the Notice of Pendency of Class Action ("Class Notice"), along with the Notice of Proposed Class Settlement (Partial) ("SST Settlement Notice"), by first class mail to each potential class member whose addresses can reasonably be

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<sup>1</sup> This Stipulation supersedes Plaintiffs' Local Rule 23(c)(1) Statement filed January 5, 2001 as Exhibit 1 to Plaintiffs' Memorandum of Points and Authorities in Support of Joint Motion for Class Certification.

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ascertained and to each potential class member who requests such notices; by continuous publication on the various plaintiffs' law firms' websites on the Internet; and by causing such notices to be published in one issue of THE PINK SHEET (published by the F.D.C. reports) and two issues of MODERN HEALTHCARE MAGAZINE. The Long Forms used for mailing the Class Notice, along with the cover letter, and the SST Settlement Notice are attached as Exhibits A and B respectively. The Short Forms used for publication of the Class Notice and SST Settlement Notice are attached as Exhibits C and D respectively.

**Time of Notice**

2. Plaintiffs will create a list of names of potential class members of the class certified by Court order dated July 2, 2001, including where available the mailing addresses, by August 9, 2001. Any mailing addresses not available to plaintiffs will be supplied by Mylan by August 28, 2001, to the extent such addresses are readily available in Mylan's accounting records.

3. The notices will be mailed to class members, and published on the plaintiffs' law firms' websites and in MODERN HEALTHCARE MAGAZINE by September 15, 2001. The notices will be published in THE PINK SHEET within 35 days of the entry of this order, and no later than October 1, 2001.

**Persons Effecting Notice**

4. Plaintiffs shall retain an experienced claims administration firm, the Poorman-Douglas Corporation, to mail the notices to potential class members.

5. Plaintiffs shall cause the notices to be published in one issue of THE PINK SHEET (published by the F.D.C. reports) and two issues of MODERN HEALTHCARE MAGAZINE

and on the various plaintiffs' law firms' websites on the Internet.

**To Whom Notice Shall Be Given**

6. Notice shall be given to the potential members of the class certified by Court order dated July 2, 2001.

**How Payment Shall Be Made**

7. Plaintiffs' counsel shall advance the cost of the Class Notice and SST Settlement Notice. SST has agreed that, after the Effective Date of the Settlement (as defined therein), up to \$250,000 of the money it has paid in escrow in connection with this settlement may be used to reimburse Plaintiffs' counsel for court-approved notice costs incurred in connection with the SST Settlement, as set forth in the Stipulation of Settlement Between Plaintiffs and SST Corporation at Section III(C)(1) and (2).

**Cutoff Date for Responses To Notices**

8. By letter postmarked no later than November 1, 2001, any potential member of the class who wishes to be excluded from the class, or from participating in the SST Settlement, or from both, must submit written requests to be excluded.

**Who Shall Receive Responses To Notices**

9. The claims administration firm selected as described in paragraph 4 above will be responsible for receiving responses to the Class Notice and the SST Settlement Notice and forwarding them to counsel for each of the parties. Requests for exclusion from the SST Settlement shall also be submitted directly to counsel for SST.

**Fairness Hearing**

10. The Court shall schedule the hearing to determine the fairness of the SST

Settlement on January 29th, 2002 at 1:30 p.m.

Dated: August 14, 2001

AGREED TO:

COHEN, MILSTEIN, HAUSFELD & TOLL, P.L.L.C.

By: Michael D. Hausfeld (SMS)

Michael D. Hausfeld, D.C. Bar No. 153742

Mary N. Strimel, D.C. Bar No. 455303

1100 New York Avenue, N.W.

West Tower, Suite 500

Washington, DC 20005-3934

Telephone: (202) 408-4600

Facsimile: (202) 408-4699

Linda P. Nussbaum

COHEN, MILSTEIN, HAUSFELD & TOLL, P.L.L.C.

825 Third Avenue, 30<sup>th</sup> Floor

New York, NY 10022-7519

Telephone: (212) 838-7797

Facsimile: (212) 838-7745

Thomas Campbell

GARDNER CARTON & DOUGLAS

321 North Clark Street

Chicago, IL 60610-4795

Telephone: (312) 644-3000

Facsimile: (312) 644-3381

FINE KAPLAN & BLACK

Arthur M. Kaplan

1845 Walnut Street, 23<sup>rd</sup> Floor

Philadelphia, PA 19103

Telephone: (215) 567-6565

Facsimile: (312) 644-3381

POMERANTZ HAUDEK BLOCK GROSSMAN  
& GROSS, LLP

Marc I. Gross  
100 Park Avenue, 26<sup>th</sup> Floor  
New York, NY 10017-5516  
Telephone: (212) 661-1100  
Facsimile: (212) 661-8665

**COUNSEL FOR DIRECT PURCHASER  
CLASS PLAINTIFFS**

CLIFFORD CHANCE ROGERS & WELLS LLP

By: James B. Weidner (SWS)

James B. Weidner  
200 Park Avenue  
New York, NY 10166  
Telephone: (212) 878-8000  
Facsimile: (212) 878-8375

**COUNSEL FOR MYLAN DEFENDANTS**

PAUL, WEISS, RIFKIND, WHARTON & GARRISON

By: Sidney S. Rosdeitcher (SWS)

Sidney S. Rosdeitcher  
Robert N. Kravitz  
1285 Avenue of the Americas  
New York, NY 10019-6064  
Telephone: (212) 373-3000  
Facsimile: (212) 757-3990

**COUNSEL FOR SST CORPORATION**

WEIL, GOTSHAL & MANGES, LLP

By: David A. Hickerson (SMS)

David A. Hickerson, D.C. Bar No. 414623  
1615 L Street, N.W.  
Washington, DC 20036  
Telephone: (202) 682-7000  
Facsimile: (202) 857-0939

**COUNSEL FOR GYMA LABORATORIES OF  
AMERICA, INC.**

DEBEVOISE & PLIMPTON

By: Christopher K. Tahbaz (SMS)

Gary W. Kubek  
Christopher K. Tahbaz  
919 Third Avenue  
New York, NY 10022  
Telephone: (212) 909-6000  
Facsimile: (212) 909-6836

**COUNSEL FOR CAMBREX CORPORATION AND  
PROFARMACO S.r.l.**

SO ORDERED:

*Aug. 16, 2001*

*Thomas F. Hogan*  
U.S. District Judge Thomas F. Hogan

**CERTIFICATE OF SERVICE**

I, Susan R. Schwaiger, certify that on August 14, 2001, I caused a true and correct copy of the foregoing Stipulation and [Proposed] Order for Notices of Pendency of Class Action and SST Settlement, with attached exhibits, to be served by fax and first class mail, postage prepaid on the following counsel of record:

James B. Weidner  
James D. Miller  
Clifford Chance Rogers & Wells, LLP  
200 Park Avenue  
New York, NY 10166  
**Attorneys for the Mylan Defendants:**

and by first class mail, postage prepaid on the following counsel of record:

Kevin Arquit, Esq.  
Clifford Chance Rogers & Wells  
607 - 14th Street, N.W.  
Washington, D.C. 20005  
**Attorneys for the Mylan Defendants:**

Gary W. Kubek  
Christopher K. Tahbaz  
DeBevoise & Plimpton  
875 Third Avenue  
New York, NY 10022  
**Attorneys for Cambrex Corp. and Profarmaco S.r.l.**

Irving Scher  
Weil Gotshal & Manges, LLP  
767 Fifth Avenue  
New York, NY 10153  
**Attorneys for Gyma Laboratories of America, Inc.**

Sidney S. Rosdeitcher  
Robert Kravitz  
Paul Weiss Rifkind Wharton & Garrison  
1285 Avenue of the Americas  
New York, NY 10019  
**Attorneys for SST Corporation**

Randall David Marks, Esq.  
Federal Trade Commission  
6<sup>th</sup> Street & Pennsylvania Avenue, N.W.  
First Floor  
Washington, DC 20580  
**Attorneys for Federal Trade Commission**

Mitchell L. Gentile  
State of Ohio Attorney General's Office  
Antitrust Section  
140 East Town Street  
Columbus, Ohio 43215  
**Lead Counsel for State Attorneys General**

Bernard Persky  
Goodkind Labaton Rudoff & Sucharow, LLP  
100 Park Avenue  
New York, NY 10017  
**Co-Lead Counsel for Indirect Purchaser Plaintiffs**

Robert S. Schachter  
Joseph Tusa  
Zwerling Schachter & Zwerling, LLP  
767 Third Avenue  
New York, NY 10017  
**Co-Lead Counsel for Indirect Purchaser Plaintiffs**

  
Susan R. Schwaiger

**EXHIBIT A**

September 15, 2001

To: All Potential Class Members

Re: In re Lorazepam and Clorazepate Antitrust Litigation

Dear Potential Class Member:

In 1999, plaintiffs Advocate Health Care, St. Charles Hospital & Rehabilitation Center, Dik Drug Company, and Harvard Pilgrim Health Care, Inc. commenced a class action against Mylan Laboratories, Inc.; Mylan Pharmaceuticals, Inc.; UDL Laboratories, Inc.; Cambrex Corporation; Profarmaco S.r.l.; Gyma Laboratories of America, Inc.; and SST Corporation alleging monopolization and other violations of the antitrust laws with respect to the pricing of lorazepam and clorazepate by Mylan and UDL Laboratories.

You have received this mailing because you are or may be a class member in that litigation. Enclosed are two Notices approved by the Court for dissemination to class members. The Notice of Proposed Class Settlement (Partial) reflects a partial settlement with one of the defendants, SST Corporation. The Notice of Pendency of Class Action informs you of the decision by the Court appointing Advocate Health Care, St. Charles Hospital & Rehabilitation Center, Dik Drug Company, and Harvard Pilgrim Health Care, Inc. as class representatives and certifying a class of direct purchasers in the on-going litigation against the non-settling defendants. Please read both notices carefully, as they contain different information.

Very truly yours.

Linda P. Nussbaum  
Counsel for the Direct Purchaser Plaintiff Class

**THIS IS AN IMPORTANT LEGAL NOTICE.  
THE MATTERS DISCUSSED HEREIN MAY AFFECT  
SUBSTANTIAL LEGAL RIGHTS THAT YOU MAY HAVE.  
READ THIS ENTIRE NOTICE CAREFULLY.**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

*In re LORAZEPAM & CLORAZEPATE  
ANTITRUST LITIGATION*

This Document Relates to:

ADVOCATE HEALTH CARE;  
ST. CHARLES HOSPITAL &  
REHABILITATION CENTER; DIK DRUG  
COMPANY and HARVARD PILGRIM  
HEALTH CARE, INC., on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

MYLAN LABORATORIES, INC., *et al.*

Defendants.

MDL No. 1290 (TFH)  
Misc. No. 99ms276  
Judge Thomas F. Hogan

Case No.: 1:99cv00790  
Consolidated with  
Case No.: 99 c 2228  
(U.S. District Court for the  
District of Illinois)

**NOTICE OF PENDENCY OF CLASS ACTION**

TO: All persons and entities in the United States who purchased generic lorazepam tablets and/or generic clorazepate tablets directly from Defendants Mylan Pharmaceuticals, Inc. and UDL Laboratories, Inc. during the period January 12, 1998 through the present.

**I. PURPOSE OF NOTICE**

This notice is directed to you because your rights may be affected by a lawsuit referred to as *In re Lorazepam and Clorazepate Antitrust Litigation*, MDL No. 1290 (TFH) (the "Class Action"), now pending before the Court, brought by Advocate Health Care; St. Charles Hospital and Rehabilitation Center; Dik Drug Company and Harvard Pilgrim Health Care, Inc. (collectively "Plaintiffs") on behalf of themselves and others similarly situated against Mylan Laboratories, Inc.; Mylan Pharmaceuticals, Inc. (together "Mylan"); UDL Laboratories, Inc. ("UDL"); Cambrex Corporation; Profarmaco S.r.l.; Gyma Laboratories of America, Inc.; and SST Corporation ("SST") (collectively "Defendants").

On July 2, 2001, the Court determined that this lawsuit may proceed as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure and certified a class of direct purchasers of generic lorazepam tablets and/or generic clorazepate tablets. The court appointed Advocate Health Care, St. Charles Hospital & Rehabilitation Center, Dik Drug Company and Harvard Pilgrim Health Care, Inc. as class representatives. **You may be a member of this Class. The purpose of this notice is to advise you of your rights as a potential Class Member.**

**A. The Class**

The Class is defined as all persons and entities in the United States who purchased generic lorazepam tablets and/or generic clorazepate tablets directly from Defendants Mylan and UDL during the period January 12, 1998 through the present, excluding Defendants, their respective parents, subsidiaries and affiliates, any co-conspirators of Defendants, and all government entities (the "Class").

**II. DESCRIPTION OF THE CLASS ACTION**

**A. Plaintiffs' Claims**

The Class Action asserts antitrust claims against Defendants on behalf of a class of entities in the United States who purchased lorazepam tablets and/or clorazepate tablets from Mylan or UDL between January 12, 1998 and the present. The term "lorazepam" means the generic equivalent to Ativan, the branded drug manufactured and sold by Wyeth-Ayerst Laboratories, Inc. The term "clorazepate" means the generic equivalent to Tranxene, the branded drug manufactured and sold by Abbott Laboratories, Inc.

Plaintiffs allege that in 1997, Mylan entered into an exclusive license agreement with Defendants Profarmaco, Gyma and Cambrex to license Profarmaco's active pharmaceutical ingredients ("API") used in producing lorazepam and clorazepate tablets. Plaintiffs further allege that the agreement unreasonably restrained competition in the relevant markets for lorazepam and clorazepate tablets by preventing other generic manufacturers from obtaining needed supplies of raw materials. Plaintiffs allege that after entering into the exclusive license agreement for Profarmaco's APIs, Mylan increased the prices of its lorazepam and clorazepate tablets by thousands of percent, and shared the profits with Defendants Profarmaco, Gyma and Cambrex. Plaintiffs assert that SST aided Mylan by agreeing to raise and fix prices of SST's supplies of the lorazepam API in the marketplace.

Plaintiffs allege that the activities described above violated Sections 1 and 2 of the Sherman Act. As a result of the alleged conduct, Plaintiffs assert that the Class Members paid supra-competitive prices for lorazepam and clorazepate.

**B. Defendants' Denial of Liability**

Defendants deny any liability or wrongdoing for the claims alleged. Defendants have denied, and continue to deny that they have committed any violation of law or any wrongdoing, and further deny that they have any liability with respect to any and all claims asserted by Plaintiffs on behalf of themselves or on behalf of the Class.

**C. Status of the Litigation**

Several private plaintiffs filed class action lawsuits in different federal district courts throughout the country, making claims similar to those outlined in Section II.A. above. These separate lawsuits have been consolidated for pre-trial purposes by the Judicial Panel on Multidistrict Litigation in the Federal District Court for the District of Columbia before the Honorable Thomas F. Hogan. On December 23, 1999, the direct purchaser plaintiffs filed a Consolidated Amended Class Action Complaint in this Court setting forth the antitrust claims in this litigation.

Plaintiffs have reached a partial settlement in the case with one of the defendants, SST Corporation. The case will go forward against the other defendants. The SST Settlement is the subject of a separate notice entitled Notice of Proposed Class Settlement (Partial), which has been mailed to you with this notice. You are urged to also read the SST Settlement Notice and decide separately whether to respond to it.

The Court has ordered that fact discovery be completed by October 1, 2001. Expert discovery will occur during a period calculated from the end of fact discovery and will be completed by November 15, 2001. At this time, no trial date has been set by the Court.

**D. Lead and Liaison Counsel**

The following law firms are serving as Co-Lead Counsel on behalf of Plaintiffs and the certified class of direct purchasers in this litigation: Gardner, Carton & Douglas, 321 North Clark Street, Quaker Tower Suite 3400, Chicago, IL 60610-4795; Pomerantz, Haudek, Block, Grossman & Gross, L.L.P., 100 Park Avenue, 26<sup>th</sup> Floor, New York, NY 10017. The following firm is serving as Liaison Counsel in the litigation: Cohen, Milstein, Hausfeld & Toll, P.L.L.C., 1100 New York Ave., N.W., West Tower, Suite 500, Washington, DC 20005-3964. Co-Lead and Liaison Counsel were proposed to the Court by counsel for plaintiffs who had filed cases that were consolidated before Judge Hogan. After reviewing their respective experience and qualifications, those counsel were accepted as Co-Lead and Liaison Counsel by the Court.

**III. HOW TO PARTICIPATE IN THIS CLASS ACTION**

If you fall within the definition of the Class set forth in Section I.A. above, you may be a member of the Class. **If you wish to remain a member of the Class, you do not need**

**to do anything at this time.** All members of the Class who do not timely request an exclusion, as discussed below in Section IV, may be entitled to share in the proceeds of any settlement or judgment, if any, that is approved by the Court, and will be bound by any final judgment and release of claims entered by the Court, if any. Lead Counsel appointed by the Court will represent the Class on your behalf. All fees and expenses of Lead Counsel will be paid out of any recovery by the Class, if any, together with such other attorneys' fees and expenses as may be awarded by the Court to other lawyers who may have done work benefitting the Class. You will not have to pay Lead Counsel any additional amounts and in no event will you be obliged to pay any judgment, court costs, or lawyers' fees for participating in this Class Action. In addition, any Class Member who does not request exclusion from the Class may also enter an appearance through their own counsel at their own expense. However, by remaining in the Class, you will be bound by any final judgment that may result from the Class Action, including any judgment at trial. The pleadings and other public records in this litigation may be examined and copied at any time during regular business hours at the Office of the Clerk of Court, United States District Court for the District of Columbia, E. Barrett Prettyman United States Courthouse, 333 Constitution Ave., N.W., Washington, D.C. 20001-2802.

#### **IV. HOW TO BE EXCLUDED FROM THE CLASS**

If you wish to be excluded from the Class, you must send a written notice, by first-class mail, postage prepaid, postmarked no later than **November 1, 2001** to:

In re Lorazepam & Clorazepate Antitrust Litigation  
Settlement and Class Administrator  
P.O. Box 6515  
Portland, Oregon 97228-6515

The postmark shall determine the time of mailing. The written notice must request exclusion from the Class and must clearly state the name and address of the person or entity that wishes to be excluded from the Class, and identify a person who, if necessary, may be contacted in connection with the request for exclusion and such person's telephone number. You need not state your reason for requesting exclusion from the Class. A form is provided at the back of this notice that you may complete and mail to exclude yourself from the Class.

By electing to be excluded: (1) you will not be entitled to share in any recovery from any settlement or judgment, if any, that may be paid to members of the Class as a result of a trial or other settlement of this lawsuit; and (2) you will not be bound by any judgment or release entered in this lawsuit. If you timely exclude yourself from the Class, at your own expense, you may pursue any claims that you have by filing your own lawsuit or taking other action. If you do not timely exclude yourself from the Class, any claim you may have against the defendants for damages arising from defendants' conduct as alleged by the class representatives will be determined in this case and cannot be presented in any other lawsuit. Any release of the Class claims will be binding on you even if you choose not to make a claim and to receive any payment

from any settlement or judgment fund. In addition, your decision whether or not to exclude yourself from the Class will be binding and final.

Your right to be excluded from the Class described in this notice is *separate* from your right to exclude yourself from the SST Settlement Class, which is the subject of a separate notice entitled Notice of Proposed Class Settlement (Partial). If you wish to exclude yourself from both the Class and the SST Settlement Class, you must send a separate written notice for each. The instructions to exclude yourself from the SST Settlement Class are contained in the Notice of Proposed Class Settlement (Partial).

**V. EXAMINATION OF PAPERS AND INQUIRIES**

This Notice contains only a summary of the litigation and your rights as a potential Class Member. For more detailed information regarding the matters involved in this litigation, please refer to the papers on file in this litigation, which may be inspected at the Office of the District Court Clerk, United States District Court for the District of Columbia, E. Barrett Prettyman United States Courthouse, 333 Constitution Ave., N.W., Washington, D.C. 20001-2802 during business hours of each business day. In addition, inquiries regarding this litigation may be addressed to:

Linda P. Nussbaum  
Cohen, Milstein, Hausfeld & Toll, P.L.L.C.  
825 Third Avenue, 30<sup>th</sup> Floor  
New York, NY 10022-7519  
Telephone: (212) 838-7797  
Fax: (212) 838-7745

**VI. REMINDER AS TO CERTAIN TIME LIMITS**

If you wish to exclude yourself from the Class, you must mail a written notice postmarked on or before **November 1, 2001**. If you wish to remain in the Class, you need not take any action in response to this notice.

**PLEASE DO NOT  
CALL THE COURT OR THE COURT CLERK'S OFFICE  
REGARDING THIS NOTICE**

Dated: September 15, 2001

BY ORDER OF THE COURT:  
Nancy Mayer-Whittington  
Clerk, United States District Court  
for the District of Columbia  
E. Barrett Prettyman United States Courthouse  
333 Constitution Ave., N.W.  
Washington, DC 20001-2802

**REQUEST FOR EXCLUSION**

**Read the enclosed legal notice carefully before filling out this form.**

I am the duly authorized representative of the entity identified below. After review of the Notice of Pendency of Class Action dated September 15, 2001, the entity identified below does not wish to remain a member of the Plaintiff Class certified in the case of *In re Lorazepam and Clorazepate Antitrust Litigation*, MDL No. 1290 (TFH) in the United States District Court for the District of Columbia. By filling out this form, the entity identified below elects to be excluded from the Class and: (1) will not share in any recovery, if any, to be paid to members of the Class as a result of trial or settlement of this lawsuit; (2) will not be bound by any judgment entered in this lawsuit; and (3) at the undersigned's own expense, may pursue any claims that he or she has by filing his or her own lawsuit or taking other action.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name of Entity Requesting Exclusion

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Signature of Authorized Individual

\_\_\_\_\_  
Printed Name of Authorized Individual

\_\_\_\_\_  
Title of Signer

\_\_\_\_\_  
Contact Person and Telephone Number (Print)

**IF YOU WANT TO EXCLUDE YOURSELF FROM THE CLASS, YOU MUST COMPLETE AND RETURN THIS FORM BY MAILING THIS FORM POSTMARKED NO LATER THAN NOVEMBER 1, 2001 TO:**

In re Lorazepam & Clorazepate Antitrust Litigation  
Settlement and Class Notice Administrator  
P.O.Box 6515  
Portland, Oregon 97228-6515

A separate Request for Exclusion should be completed and timely mailed for each entity electing to be excluded from the Class.

**EXHIBIT B**

**THIS IS AN IMPORTANT LEGAL NOTICE.  
THE MATTERS DISCUSSED HEREIN MAY AFFECT  
SUBSTANTIAL LEGAL RIGHTS THAT YOU MAY HAVE.  
READ THIS ENTIRE NOTICE CAREFULLY.**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

*In re LORAZEPAM & CLORAZEPATE  
ANTITRUST LITIGATION*

This Document Relates to:

ADVOCATE HEALTH CARE;  
ST. CHARLES HOSPITAL &  
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COMPANY and HARVARD PILGRIM  
HEALTH CARE, INC., on behalf of  
themselves and all others similarly situated,

Plaintiffs,

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MDL No. 1290 (TFH)  
Misc. No. 99ms276  
Judge Thomas F. Hogan

Case No.: 1:99cv00790  
Consolidated with  
Case No.: 99 c 2228  
(U.S. District Court for the  
District of Illinois)

**NOTICE OF PROPOSED CLASS SETTLEMENT (PARTIAL)**

TO: All non-governmental hospitals, health maintenance organizations, health care delivery systems, managed healthcare companies, pharmaceutical wholesalers, distributors, retailers, and other entities that purchased lorazepam and/or clorazepate tablets from Mylan Laboratories, Inc., Mylan Pharmaceuticals, Inc., or UDL Laboratories, Inc. during the period from January 1, 1998 through December 31, 2000, including all such entities that purchased lorazepam and/or clorazepate tablets at prices contracted for directly with Mylan by a group purchasing organization of which the purchasing entity was a member.

THIS NOTICE ADVISES YOU OF A PARTIAL SETTLEMENT OF THIS LAWSUIT WITH DEFENDANT SST CORPORATION ("SST"), SUBJECT TO COURT APPROVAL, AND OF YOUR RIGHTS TO PARTICIPATE IN OR OBJECT TO THE PROPOSED PARTIAL SETTLEMENT OR TO EXCLUDE YOURSELF FROM THE SST SETTLEMENT CLASS. THE CASE IS CONTINUING AGAINST THE OTHER DEFENDANTS.

This Notice is given pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the District of Columbia (the "Court"). There are now pending in the Court class actions brought on behalf of entities that have purchased lorazepam and/or clorazepate from Mylan Pharmaceuticals, Inc. and/or UDL Laboratories, Inc. in the United States. The actions allege violations of the antitrust laws with respect to the pricing of lorazepam tablets and clorazepate tablets.

If you are a member of the SST Settlement Class described in this Notice, you will have a right: (a) to share in the settlement with SST, under which SST has agreed to pay up to \$883,334 (including certain costs for notice to the Settlement Class), if the settlement and the settlements in certain related cases are approved by the Court; (b) to object to the settlement; or (c) to exclude yourself from the SST Settlement Class. This Notice is sent for the purpose of informing you of the pendency of this litigation, the decision by the Court to certify a SST Settlement Class, and the proposed Class settlement with SST, so that you may decide what steps you wish to take. Your possible choices are described in this Notice.

## **1. BACKGROUND OF THE LITIGATION**

Various private plaintiffs filed federal lawsuits on behalf of direct purchasers of the affected products against defendants Mylan Laboratories, Inc., Mylan Pharmaceuticals, Inc., UDL Laboratories, Inc. (together "Mylan"), Profarmaco S.r.l, Gyma Laboratories of America, Inc., Cambrex Corporation, and SST. All of the Direct Purchaser cases have been consolidated by the Judicial Panel on Multidistrict Litigation in this Court before the Honorable Thomas F. Hogan for pretrial proceedings (this "Action"). On December 23, 1999, the Direct Purchaser Plaintiffs ("Plaintiffs") filed a Consolidated Amended Class Action Complaint in this Court setting forth the antitrust claims in this litigation.

Plaintiffs allege that in 1997, Mylan entered into an exclusive license agreement with Defendants Profarmaco, Gyma and Cambrex to license Profarmaco's active pharmaceutical ingredients ("API") used in producing lorazepam and clorazepate tablets.<sup>1</sup> Plaintiffs further allege that the agreement unreasonably restrained competition in the relevant markets for lorazepam and clorazepate tablets by preventing other generic manufacturers from obtaining needed supplies of raw materials. Plaintiffs allege that after entering into the exclusive license agreement for Profarmaco's APIs, Mylan increased the prices of its lorazepam and clorazepate tablets by thousands of percent, and shared the profits with Defendants Profarmaco, Gyma and Cambrex. Plaintiffs assert that SST aided Mylan by agreeing to raise and fix prices of SST's supplies of lorazepam API in the marketplace.

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<sup>1</sup> The term "lorazepam" means the generic equivalent to Ativan, the branded drug manufactured and sold by Wyeth-Ayerst Laboratories, Inc. The term "clorazepate" means the generic equivalent to tranxene, the branded drug manufactured and sold by Abbot Laboratories, Inc.

Plaintiffs allege that the activities described above violated Sections 1 and 2 of the Sherman Act. As a result of the alleged conduct, Plaintiffs assert that the SST Settlement Class Members paid supra-competitive prices for lorazepam and clorazepate.

SST has denied, and continues to deny, that it has committed any violation of law or any wrongdoing, and further denies that it has any liability with respect to any and all claims asserted by Plaintiffs on behalf of themselves or on behalf of the Settlement Class. Recognizing the costs attendant upon further litigation of such claims, however, and while continuing to deny vigorously Plaintiffs' allegations and any liability with respect to them, SST has concluded that it is desirable that all of the claims against it in this Action be compromised and settled.

The litigation against the remaining defendants (other than SST) will continue.

The Court has preliminarily certified an SST Settlement Class consisting of:

all non-governmental hospitals, health maintenance organizations, health care delivery systems, managed healthcare companies, pharmaceutical wholesalers, distributors, retailers, and other entities that purchased lorazepam and/or clorazepate tablets from Mylan Laboratories, Inc., Mylan Pharmaceuticals, Inc., or UDL Laboratories, Inc. during the period from January 1, 1998 through December 31, 2000 (the "Class Period"), including all such entities that purchased lorazepam and/or clorazepate tablets at prices contracted for directly with Mylan by a group purchasing organization of which the purchasing entity was a member ("[SST] Settlement Class").

The Court has appointed Advocate Health Care; St. Charles Hospital & Rehabilitation Center; Dik Drug Company; and Harvard Pilgrim Health Care, Inc. as representatives of the SST Settlement Class.

## **2. THE SST SETTLEMENT**

The principal terms of the SST Settlement are summarized as follows:

### **a. Consideration to the SST Settlement Class and Plan of Allocation**

Subject to the terms and conditions of the SST Settlement Agreement, SST has agreed to pay a total of \$2,000,000 in full settlement and compromise of this Action and several related actions. \$500,000 will go to the settlement in this Action. An additional \$500,000 will be divided among the several related settlements as follows: (1) up to \$250,000 will be designated to cover the notice costs of this settlement; (2) the balance of the remaining \$500,000 (after deducting notice costs of up to \$250,000) will be divided in thirds, with one-third going to the

settlement fund in this Action and two thirds going to the settlement funds in the related actions.

In addition to the cash settlement, SST has also agreed to provide specified cooperation to Plaintiffs with respect to Plaintiffs' continuing claims against the remaining non-settling defendants.

If the proposed settlement is approved by the Court and becomes final, the money in the SST Settlement Fund will be distributed pursuant to an eventual plan, as approved by the Court. The amount of costs and attorneys' fees to be paid from the settlement fund and the precise method of allocating and distributing the net settlement funds has not yet been determined by the Court. Because this is a *partial* settlement with one defendant in the case, and there are six additional defendants remaining in the on-going litigation, the SST settlement amount may be combined with judgments or settlements received from other defendants, if any. Accordingly, at this time, it is impossible to estimate the eventual net recovery, if any, that settlement class members will receive. No distribution of settlement funds will be made at this time, and it is probable that if any distribution is made, it will not be made until resolution of the class claims against the remaining defendants.

**b. Release of Claims Against SST**

If the SST Settlement is approved, and upon such approval becoming final, the SST Settlement shall effect a release of the claims (as described below), of all plaintiffs and settling class members, on behalf of themselves, their past and present officers, directors, agents, attorneys, owners, shareholders, trustees, beneficiaries, parents, subsidiaries, divisions and affiliates and the heirs, executors, administrators, predecessors, successors and assigns of each of the foregoing (collectively "Plaintiffs"), against SST, and any of its present and past parents, joint ventures, affiliates, subsidiaries, division or other organizational units of any kind, any entity now or in the past controlled by, controlling or under common control with any of the foregoing, the past and present officers, directors, partners, shareholders, employees, agents, attorneys, representatives, beneficial owners, investment advisors, investment bankers, independent contractors, accountants, heirs, executors, administrators of each of the foregoing, and the predecessors, successors and assigns of each of the foregoing (collectively "the Released Parties").

The claims released by the SST Settlement are each and every direct, individual, class, representative, derivative and other claim, right, action, allegation, demand, defense, counterclaim, issue, setoff, liability, penalty and cause of action of every nature and description whatsoever, known or unknown, suspected or unsuspected, including (without limitation) all claims for damages, restitution, disgorgement or rescission, or any other legal or equitable relief, liquidated or unliquidated, which the Plaintiffs, or any of them had, now has or may hereafter have against the Released Parties, arising from or in connection with or in any way related, directly or indirectly, to any of the acts, facts, matters, transactions, events, occurrences, disclosures, statements, representations, omissions, or failures to act set forth, alleged, referred to

or otherwise embraced in this Action, including but not limited to claims arising under the statutory or common laws of the United States, any state, territory or other jurisdiction (whether domestic or foreign), or arising from or in any way related to the settlement of this Action, excepting only any claim to enforce the terms of the SST Settlement Agreement.

Plaintiffs will also be deemed to have expressly waived any rights or benefits, if available, under Section 1542 of the California Civil Code (or any similar statute or principle of common law of any jurisdiction), which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him, must have materially affected his settlement with the debtor.

In addition, the release of claims against SST shall remain effective even if the facts with respect to which the release is given are found hereafter to be other than, or different from, the facts that you now believe to be true.

THE ABOVE IS ONLY A SUMMARY OF THE SETTLEMENT WITH SST, AND YOU ARE REFERRED TO THE SETTLEMENT AGREEMENT ON FILE WITH THE CLERK OF THE COURT FOR ITS PRECISE TERMS AND CONDITIONS, OR WHICH YOU MAY OBTAIN BY CONTACTING CLASS COUNSEL, IDENTIFIED BELOW, WHO WILL FORWARD A COPY OF THE AGREEMENT TO YOU.

### **3. HOW TO REMAIN A MEMBER OF THE SST SETTLEMENT CLASS**

**If you are a member of the SST Settlement Class, you need not take any action if you desire to remain a member of the SST Settlement Class.**

If you choose to remain in the SST Settlement Class, your rights in this litigation will be represented by the SST Class Representatives and by Class Counsel identified in this Notice. If the SST Settlement is approved by the Court, you will also be bound by such settlement, including the release provisions thereof. The release and dismissal of your claims against SST will have no effect upon any claims you may have as a member of the Class against the remaining, non-settling defendants and the litigation is continuing against those defendants.

A Class has also been certified for the litigation against the remaining defendants and is the subject of a separate notice, entitled Notice of Pendency of Class Action and mailed herewith, that you should read and decide separately whether to respond to.

You will not be individually responsible for payment of attorneys' fees or litigation costs and expenses in connection with this litigation. Any such fees and costs will be paid, pursuant to Court approval, out of the Direct Purchaser SST Settlement Fund Account and

any other future recoveries from settlements or judgments.

**4. HOW TO BE EXCLUDED FROM THE CLASS**

If you wish to exclude yourself from the SST Settlement Class for any reason, or if you do not wish to share in the SST Settlement, you may exclude yourself from the SST Settlement Class by sending written notice, by first-class mail, postage prepaid, postmarked on or before **November 1, 2001** to:

In Re Lorazepam & Clorazepate Antitrust Litigation  
Settlement and Class Administrator  
P.O. Box 6515  
Portland, Oregon 97228-6515

and to counsel for SST Corporation:

PAUL, WEISS, RIFKIND, WHARTON & GARRISON  
Sidney S. Rosdeitcher, Esq.  
1285 Avenue of the Americas  
New York, NY 10019-6064

The postmark shall determine the time of mailing. The written notice must request exclusion from the SST Settlement Class and must clearly state the name and address of the person or entity that wishes to be excluded from the SST Settlement and identify a person who, if necessary, may be contacted in connection with the request for exclusion and such person's telephone number. You need not state your reason for requesting exclusion. A form is provided at the back of this notice that you may complete and mail to exclude yourself from the SST Settlement Class.

If you do not exclude yourself from the SST Settlement Class, you will be able to participate in the SST Settlement. Your decision on whether to participate in or exclude yourself from the SST Settlement Class will have no bearing on whether you will be able to participate in any other class settlements or judgments should other defendants or other persons enter into class settlement agreements, or should judgments be obtained against other defendants.

Your right to be excluded from the SST Settlement Class described in this notice is separate from your right to exclude yourself from the Class for the continuing litigation, which is the subject of a separate notice entitled Notice of Pendency of Class Action. If you wish to exclude yourself from both the SST Settlement Class and the Class for purposes of the continuing litigation, you must send separate written notice for each. The instructions to exclude yourself from the Class for purposes of the continuing litigation are contained in the Notice of Pendency of Class Action.

**5. HEARING REGARDING APPROVAL OF SETTLEMENT**

PLEASE TAKE NOTICE that a hearing will be held on [DATE] at [TIME] before the Honorable Thomas F. Hogan, at the United States Courthouse, 333 Constitution Avenue, N.W., Washington, D.C. 20001, for the purpose of determining whether the SST Settlement is fair, adequate and reasonable and should be approved by the Court. If you are a class member and have not requested to be excluded from the SST Settlement Class, you are entitled to appear and be heard at this hearing, and to object to the terms of the partial settlement if you wish. The time and date of the hearing may be continued from time-to-time without further notice, unless you file the court papers described in the next paragraph.

It is not necessary to appear at the hearing or take any action. However, any member of the SST Settlement Class who has not requested exclusion from the SST Settlement Class in the manner set forth above may appear at the hearing in person or by duly-authorized attorneys, and show cause why the SST Settlement should not be approved as fair, reasonable and adequate, provided that no person shall be heard in opposition, and no paper or brief submitted by any such person shall be received or considered by the Court unless, on or before [DATE] a notice of intention to appear, and a statement of the position to be asserted, and the grounds therefor, together with copies of any supporting papers or briefs are filed with the Clerk, United States District Court for the District of Columbia, 333 Constitution Avenue, N.W., Washington, DC 20001, with proof of service upon Class Counsel and counsel for SST identified below:

**CLASS COUNSEL:**

GARDNER, CARTON & DOUGLAS  
Thomas Campbell, Esq.  
321 North Clark Street  
Quaker Tower, Suite 3400  
Chicago, IL 60610-4795  
(312) 644-3000

POMERANTZ, HAUDEK, BLOCK  
GROSSMAN & GROSS LLP  
Stanley M. Grossman, Esq.  
100 Park Avenue, 26<sup>th</sup> Floor  
New York, NY 10017  
(212) 661-1100

**COUNSEL FOR SST CORPORATION:**

PAUL, WEISS, RIFKIND, WHARTON  
& GARRISON  
Sidney S. Rosdeitcher, Esq.  
1285 Avenue of the Americas  
New York, NY 10019-6064  
(212) 373-3000

Except as provided herein, no person shall be entitled to contest the terms and conditions of the SST Settlement unless the procedures set forth above are complied with, and

persons who fail to object as provided herein shall be deemed to have waived, and shall be foreclosed from raising any objections to the SST Settlement.

**6. FURTHER PROCEEDINGS**

Whether or not the proposed SST Settlement and dismissal of SST are approved by the Court, the litigation will continue against the non-settling defendants. The Court has certified a class for litigation against the remaining defendants, and your rights to remain in or exclude yourself from that class are the subject of a separate notice which you are urged to read.

**7. ADDITIONAL INFORMATION**

**There will not be a distribution of the settlement funds at this time.** You are requested, however, to preserve all of your records relating to your purchases of lorazepam tablets and/or clorazepate tablets from Mylan during the period from January 1, 1998 through December 31, 2000.

If you change your address, or if this Notice was not mailed to your correct address, you should immediately provide your correct address to *In Re Lorazepam & Clorazepate Antitrust Litigation*, Settlement and Class Administrator, P.O. Box 6515, Portland, Oregon 97228-6515. If the Settlement Administrator does not have your correct address, you may not receive notice of important developments in this class action.

If you wish, you may enter an appearance through your own counsel at your own expense. If you desire to be represented by your own counsel, you must advise the Court of your request and send a copy of your request to the attorneys identified in paragraph 5 above.

The pleadings and other records in this litigation may be examined and copied during regular office hours at the office of the Clerk of the United States District Court for the District of Columbia.

**PLEASE DO NOT  
CALL THE COURT OR THE COURT CLERK'S OFFICE  
REGARDING THIS NOTICE**

Dated: September 15, 2001

BY ORDER OF THE COURT:  
Nancy Mayer-Whittington  
Clerk, United States District Court  
for the District of Columbia  
E. Barrett Prettyman United States Courthouse  
333 Constitution Ave., N.W.  
Washington, DC 20001-2802

**REQUEST FOR EXCLUSION**

**Read the enclosed legal notice carefully before filling out this form.**

I am a duly authorized representative of the entity identified below. After review of the Notice of Proposed Class Settlement (Partial) dated September 15, 2001, the entity identified below does not wish to remain a member of the SST Corporation ("SST") Settlement Class certified in the case of *In re Lorazepam and Clorazepate Antitrust Litigation*, MDL No. 1290 (TFH) in the United States District Court for the District of Columbia. By filling out this form, the entity identified below elects to be excluded from the SST Settlement Class and: (1) will not share in any recovery, if any, to be paid to members of the SST Settlement Class as a result of settlement of this lawsuit with SST; and (2) will not be bound by the release of claims against SST and the Released Parties.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name of Entity Requesting Exclusion

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Signature of Authorized Individual

\_\_\_\_\_  
Printed Name of Authorized Individual

\_\_\_\_\_  
Title of Signer

\_\_\_\_\_  
Contact Person and Telephone Number (Print)

**IF YOU WANT TO EXCLUDE YOURSELF FROM THE SST SETTLEMENT CLASS, YOU MUST COMPLETE AND RETURN THIS FORM BY MAILING THIS FORM POSTMARKED NO LATER THAN NOVEMBER 1, 2001 TO:**

In re Lorazepam & Clorazepate Antitrust Litigation  
Settlement and Class Notice Administrator  
P.O.Box 6515  
Portland, Oregon 97228-6515

and to counsel for SST Corporation:

PAUL, WEISS, RIFKIND, WHARTON & GARRISON  
Sidney S. Rosdeitcher, Esq.  
1285 Avenue of the Americas  
New York, NY 10019-6064

A separate Request for Exclusion should be completed and timely mailed for each entity electing to be excluded from the SST Settlement Class.

**EXHIBIT C**

## ATTENTION

**All persons and entities in the United States who purchased generic lorazepam tablets and/or generic clorazepate tablets directly from Defendants Mylan Pharmaceuticals, Inc. and UDL Laboratories, Inc. during the period January 12, 1998 through the present.**

**Please Read This Notice Carefully**

Advocate Health Care; St. Charles Hospital and Rehabilitation Center; Dik Drug Company and Harvard Pilgrim Health Care, Inc. (collectively "Plaintiffs"), on behalf of themselves and others similarly situated, have brought an antitrust lawsuit known as *In re Lorazepam and Clorazepate Antitrust Litigation*, MDL No. 1290 (TFH), U.S. District Court for the District of Columbia (the "Class Action") against Mylan Laboratories, Inc.; Mylan Pharmaccuticals, Inc. (together "Mylan"); UDL Laboratories, Inc. ("UDL"); Cambrex Corporation; Profarmaco S.r.l.; Gyma Laboratories of America, Inc.; and SST Corporation (collectively "Defendants") claiming that as a result of Defendants' conduct, all persons and entities in the United States who purchased generic lorazepam and/or clorazepate tablets directly from Mylan or UDL were overcharged. Defendants deny any liability or wrongdoing for the claims alleged.

On July 2, 2001, the Court determined that this lawsuit proceed as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure and certified a class of direct purchasers of generic lorazepam and/or generic clorazepate tablets. The Court appointed Advocate Health Care, St. Charles Hospital & Rehabilitation Center, Dik Drug Company and Harvard Pilgrim Health Care, Inc. as class representatives.

Your Rights

If you purchased generic lorazepam tablets and/or generic clorazepate tablets from Mylan or UDL during the period January 12, 1998 through the present, you may be a member of the Class.

If you wish to remain a member of the Class, you do not need to do anything at this time. You may be entitled to share in the proceeds of any settlement or judgment, if any, that is approved by the Court, and you will be bound by any final judgment and release of claims entered by the Court, if any.

If you do not wish to remain a member of the Class, you must mail a written notice identifying yourself as a class member by first-class mail, postage prepaid, postmarked no later than November 1, 2001 to:

In re Lorazepam and Clorazepate Antitrust Litigation, Settlement and Class Administrator, P.O. Box 6515, Portland, Oregon 97228-6515.

For complete information and a copy of the Notice of Pendency of Class Action, write to: In re Lorazepam and Clorazepate Antitrust Litigation, Settlement and Class Administrator, P.O. Box 6515, Portland, Oregon 97228-6515 or access [www.cmht.com](http://www.cmht.com).

Clerk of the Court, U.S. District Court, District of Columbia

**PLEASE DO NOT CONTACT THE COURT**

**EXHIBIT D**

## ATTENTION

**All non-governmental hospitals, health maintenance organizations, health care delivery systems, managed healthcare companies, pharmaceutical wholesalers, distributors, retailers, and other entities that purchased lorazepam and/or clorazepate tablets from Mylan Laboratories, Inc., Mylan Pharmaceuticals, Inc., or UDL Laboratories, Inc. during the period from January 1, 1998 through December 31, 2000, including all such entities that purchased lorazepam and/or clorazepate tablets at prices contracted for directly with Mylan by a group purchasing organization of which the purchasing entity was a member.**

**Please Read This Notice Carefully**

Advocate Health Care; St. Charles Hospital and Rehabilitation Center; Dik Drug Company and Harvard Pilgrim Health Care, Inc. (collectively "Plaintiffs"), on behalf of themselves and others similarly situated, have brought an antitrust lawsuit known as *In re Lorazepam and Clorazepate Antitrust Litigation*, MDL No. 1290 (TFH), U.S. District Court for the District of Columbia (the "Class Action") against Mylan Laboratories, Inc.; Mylan Pharmaceuticals, Inc. (together "Mylan"); UDL Laboratories, Inc. ("UDL"); Cambrex Corporation; Profarmaco S.r.l.; Gyma Laboratories of America, Inc.; and SST Corporation ("SST") (collectively "Defendants") claiming that as a result of Defendants' conduct, all of the above-described entities in the United States that purchased generic lorazepam and/or clorazepate tablets directly from Mylan or UDL were overcharged. Defendants deny any liability or wrongdoing for the claims alleged.

This notice advises you of a partial settlement of this lawsuit with Defendant SST, subject to court approval, and of your rights to participate in or object to the proposed partial settlement or to exclude yourself from the SST Settlement Class. The case is continuing against the other Defendants.

The Court will hold a final approval hearing on the Proposed SST Settlement at \_\_\_ on \_\_\_, 2002 in the Courtroom of the Honorable Thomas Hogan, at the U.S. District Court, District of Columbia, 333 Constitution Ave., N.W., Washington, DC 20001.

Your Rights

If you are one of the above-described entities that purchased generic lorazepam tablets and/or generic clorazepate tablets from Mylan or UDL during the period January 1, 1998 through December 31, 2000,

including if you purchased at prices contracted for directly with Mylan or UDL by a group purchasing organization of which you are a member, you may be a member of the SST Settlement Class. If you are a member of the SST Settlement Class, you will be entitled to: (1) share in any distribution to Class members of the proceeds of the settlement with SST under which SST has agreed to pay up to \$883,334, if the settlement and settlements in certain related cases are approved by the Court; (2) object to the SST settlement; or (3) exclude yourself from the SST Settlement Class.

If you wish to remain a member of the SST Settlement Class, you do not need to do anything at this time. You will be bound by any final judgment and release of claims against SST entered by the Court. If the proposed settlement is approved by the Court, the money in the SST Settlement fund will be allocated pursuant to a plan of distribution as approved by the Court.

If you do not wish to remain a member of the SST Settlement Class, you must mail a written notice identifying yourself as a member of the class by first-class mail, postage prepaid, postmarked no later than November 1, 2001 to: *In re Lorazepam and Clorazepate Antitrust Litigation, Settlement and Class Administrator*, P.O. Box 6515, Portland, Oregon 97228-6515 and Paul Weiss Rifkind Wharton & Garrison, Attn. Sidney S. Rosdeitcher, Esq., 1285 Avenue of the Americas, New York, NY 10019-6064.

For complete information and a copy of the Notice of Proposed Class Settlement (Partial), write to: *In re Lorazepam and Clorazepate Antitrust Litigation, Settlement and Class Administrator*, P.O. Box 6515, Portland, Oregon 97228-6515 or access [www.cmlht.com](http://www.cmlht.com).

Clerk of the Court, U.S. District Court, District of Columbia  
**PLEASE DO NOT CONTACT THE COURT**